

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA §  
v. § No. 4:21CR300  
JOHN DAVID HARTUNG (2) § Judge Jordan

## **ELEMENTS OF THE OFFENSE**

The defendant is charged in Count One of the **Fourth Superseding Indictment** with a violation of 21 U.S.C. § 846, Conspiracy to Possess with Intent to Manufacture and Distribute Heroin and Methamphetamine. The essential elements which must be proven to establish the offense are as follows:

First: That the defendant and one or more persons, directly or indirectly, reached an agreement to commit the crime charged in the **Fourth Superseding Indictment**, that is, to possess with the intent to manufacture and distribute methamphetamine;

Second: That the defendant knew of the unlawful purpose of the agreement;

Third: That the defendant joined in the agreement willfully, that is, with the intent to further its unlawful purpose;

Fourth: That the overall scope of the conspiracy involved 1 kilogram or more of a mixture or substance containing a detectable amount of heroin, and 500 grams or more of a mixture or substance containing

a detectable amount of methamphetamine or 50 grams or more of methamphetamine (actual); and

Fifth: That the defendant knew or reasonably should have known that the scope of the conspiracy involved 1 kilogram or more of a mixture or substance containing a detectable amount of heroin, and 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine or 50 grams or more of methamphetamine (actual).

Respectfully submitted,

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/s/  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed via electronic filing to defense counsel on October 9, 2024.

/s/  
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